

**LEWIS  
AND  
ROCA**  
LLP  
LAWYERS

E-Filed on 2/23/10

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*Attorneys for USACM Liquidating Trust*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,<sup>1</sup>

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,<sup>2</sup>

USA SECURITIES, LLC,<sup>3</sup>

Debtors.

**Affects:**

- ☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☒ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under  
Case No. BK-S-06-10725 LBR

**NOTICE OF HEARING REGARDING  
OBJECTION OF USACM TRUST TO  
PROOF OF CLAIM OF TOBIAS VON  
EUW AS FILED PARTIALLY IN  
WRONG DEBTOR'S CASE**

Hearing Date: April 22, 2010  
Hearing Time: 9:30 a.m.

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 21, 2007.

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1           **THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM**  
2           **THAT YOU FILED.** The USACM Trust seeks to disallow your claim because the  
3           USACM Trust contends that Claim No. 10725-02481 is partially based upon an  
4           investment in USA Capital Diversified Trust Deed Fund (“DTDF”) and was  
5           therefore filed in the wrong debtor case.

6           **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**  
7           **COURT TO DISCUSS THE MERITS OF YOUR CLAIM.** QUESTIONS  
8           REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM  
9           SHOULD BE DIRECTED TO BRANT FYLLING AT SIERRA GROUP  
10          CONSULTING, LLC (602-424-7009) OR TO THE UNDERSIGNED COUNSEL.

11          **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust by and  
12          through its counsel, has filed an Objection of USACM Trust to Proof of Claim of Tobias  
13          Von Euw Revocable Trust Dated 11/23/04 As Filed Partially in Wrong Debtor’s Case  
14          (with Certificate of Service) (the “Objection”). The USACM Trust respectfully requests  
15          that the Court enter an order pursuant to § 502 of title 11 of the United States Code (the  
16          “Bankruptcy Code”) disallowing \$947,616.84 of your claim against USACM. This  
17          Objection will not affect the remainder of your claim against USACM to the extent that it  
18          is based upon your direct lender investments in specific loans. This Objection will not  
19          affect your already approved proof of interest in the amount of \$947,616.84 as reflected in  
20          the books and records of DTDF as of April 13, 2006.

21          **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held  
22          before the Honorable Linda B. Riegle, U.S. Bankruptcy Court Judge in the Foley Federal  
23          Building, 300 Las Vegas Blvd. South, 3<sup>rd</sup> Floor, Courtroom No. 1, Las Vegas, Nevada on  
24          **April 22, 2010, at the hour of 9:30 a.m.**

25          **NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON APRIL 22,**  
26          **2010, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND**

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1 **SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE**  
2 **HEARD ON THAT DATE.**

3 **NOTICE IS FURTHER GIVEN** that any response to the Objection must be filed  
4 by **April 8, 2010**. Pursuant to Local Rule 9014(d), any response to the objection must be  
5 filed and service must be completed no later than fourteen (14) days preceding the hearing  
6 date. The opposition must set forth all relevant facts and any relevant legal authority..

7 If you object to the relief requested, you *must* file a **WRITTEN** response to this  
8 pleading with the Court. You *must* also serve your written response on the person who  
9 sent you this notice.

10 If you do not file a written response with the Court, or if you do not serve your  
11 written response on the person who sent you this notice, then:

- 12 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
- 13 • The Court may *rule against you* and sustain the objection without formally  
14 calling the matter at the hearing.

15 Dated: February 23, 2010.

16 **LEWIS AND ROCA LLP**

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18  
19 By /s/ John Hinderaker (#18024)  
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21 John C. Hinderaker, AZ 18024 (*pro hac vice*)  
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*Attorneys for the USACM Liquidating Trust*

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L A W Y E R S

**PROOF OF SERVICE**

Copy of the foregoing mailed by First  
Class, U.S. Mail, postage prepaid, on  
February 23, 2010 to the following  
party:

Tobias Von Euw Revocable Trust Dated 11/23/04  
c/o Tobias Von Euw Trustee  
2448 Lark Sparrow St.  
Las Vegas, NV 89084-3726

/s/ Leilani Lista  
Leilani Lista  
Lewis and Roca LLP